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DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 12/12/2022

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December 7, 2022

VIA ECF

Hon. Judge Stewart D. Aaron
Daniel Patrick Moynihan Courthouse
500 Pearl Street, Room 1970
New York, NY 10007

Re: Carlos Alvarez Chicas et al. v. Kelco Construction, Inc. et al.
Case No.: 1:21-cv-09014 (PAE) (SDA)

Dear Judge Aaron:

We represent Defendants Kelco Construction, Inc., E.L.M. General Construction Corp., John Kelly, and Joseph Provenzano (collectively, “Defendants”) in the above-referenced matter. We write jointly with Plaintiffs’ counsel to comply with the Court’s October 28, 2022 Order that requires the parties to provide the Court with an update on the outcome of the parties’ mediation (*see* ECF Nos. 52, 54). The parties engaged in a mediation session with Mediator Martin Scheinman on December 6, 2022. Unfortunately, the parties were unable to resolve this matter. The parties understand that the stay of all proceedings has ended and will prepare to proceed. The parties jointly propose the following:

Amended Proposed Discovery Schedule. The parties propose that the following discovery schedule supersede the discovery dates proposed by the parties on February 24, 2022 and approved by Your Honor on March 3, 2022 (*see* ECF Nos. 25, 27):

- Interrogatories must be served no later than January 6, 2023.
- Initial Requests for Production must be served no later than January 6, 2023.
- Requests for Admission must be served no later than April 17, 2023.
- Depositions shall be completed by June 30, 2023.
- All fact discovery must be completed by July 31, 2023.
- Expert discovery shall be completed by September 29, 2023.

Motion for Conditional Certification. Plaintiffs advised the court of their desire to file a motion for conditional certification on May 26, 2022. In addition, to avoid motion practice, the parties previously agreed that the statute of limitations with regard to the putative FLSA Collective would be stayed for the period from June 24, 2022 until the conclusion of mediation. Accordingly,

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the stay of the statute of limitations period should now be concluded. Briefing on the motion was stayed by the Court on June 27, 2022 (*see* ECF No. 39). The parties have agreed upon the following briefing schedule:

- Motion for Conditional Certification: December 16, 2022
- Defendants' Opposition: January 20, 2023
- Plaintiffs' Reply: February 6, 2023

The parties thank the Court for its time and attention to this matter.

Respectfully submitted,

/s/ Eli Freedberg
Eli Freedberg

ENDORSEMENT: Following a telephone conference with the parties today, it is hereby ORDERED as follows:

- (1) The Amended Proposed Discovery Schedule set forth above is approved.
- (2) The foregoing deadlines may be extended for good cause, but then only for a limited purpose.
- (3) The schedule for the Motion for Conditional Certification set forth above is adopted.
- (4) No later than December 19, 2023, the parties shall file a letter setting forth a proposed schedule for any further amended pleading and the response thereto.
- (5) No later than February 15, 2023, the parties shall file a joint letter regarding the status of discovery.
- (6) SO ORDERED.

Dated: December 12, 2022

Stewart D. Aaron